

RESOLUTION NO. A-_____

1 WHEREAS, William Livengood has submitted an application for a Sidewalk Cafe
2 Permit to use a portion of the public right-of-way at The Green Gateau, 330 S. 10th Street as a
3 sidewalk cafe; and

4 WHEREAS, the applicant is willing to comply with all of the provisions of Chapter
5 14.50 of the Lincoln Municipal Code pertaining to such use; and

6 WHEREAS, the application has been reviewed by the Planning Department, the
7 Public Works and Utilities Department, and the Urban Design Committee, each of which has
8 submitted a report in conformance with § 14.50.050 of the Lincoln Municipal Code.

9 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
10 Lincoln, Nebraska:

11 That the application of William Livengood, hereinafter referred to as "Permittee",
12 to operate a sidewalk cafe in a portion of the public right-of-way at The Green Gateau, 330 S.
13 10th Street is hereby approved conditioned upon such use conforming to the application which
14 is attached hereto as Exhibit "A", the site plan which is attached hereto as Exhibit "B", the
15 provisions of Chapter 14.50 of the Lincoln Municipal Code and the following express terms,
16 conditions, and requirements:

17 1. This permit authorizes a maximum seating capacity of 20 within the
18 permit area as shown on the site plan.

19 2. Permittee shall maintain a clear, unobstructed passageway entirely
20 across the frontage of the property occupied by the Permittee parallel to the line of the street
21 and generally in the line of pedestrian traffic as shown on the site plan.

22 4. The space to be occupied by this use shall only be used for the activity or
23 activities specified on the permit and in accordance with all applicable regulations.

1 5. Such use is temporary and the Permittee, by the granting of this permit,
2 acquires no right, title, or interest in the space permitted to be used.

3 6. The City Council may require such space to be vacated, restored to its
4 prior condition upon demand, and its use discontinued, with no recourse against the City for any
5 loss or damage occasioned thereby. If any such space is not vacated and restored to its prior
6 condition and such use not discontinued by the time specified, the City may remove from such
7 space any property left thereon at the risk and expense of the Permittee and restore such
8 space to its prior condition at the expense of the Permittee.

9 7. The Permittee shall promptly remove any litter deposited on or in the
10 vicinity of the space used by the Permittee resulting from the activity or activities conducted by
11 the Permittee.

12 8. The Permittee shall at all times conduct their use of the space in an
13 orderly fashion and in such a manner as to protect the public health and safety.

14 9. Such space shall be used for business purposes by Permittee only
15 between the hours of 6:30 a.m. to 10:00 p.m., Monday through Saturday and 6:30 a.m. to 3:00
16 p.m., Sunday.

17 10. The Permittee shall comply with all health and sanitation regulations.

18 11. The permit issued pursuant to this section is a personal privilege and may
19 not be transferred or alienated voluntarily or involuntarily.

20 12. Where exigent circumstances exist and a police officer or other
21 authorized officer or employee of the City gives notice to Permittee to temporarily move from a
22 location, Permittee shall comply with the notice. Exigent circumstances shall include, but not be
23 limited to, unusually heavy pedestrian vehicular traffic, existence of any obstructions in the
24 public space at or near such location, an accident, fire, or other emergency situation at or near

1 such location, or parade, demonstration, or other such event or occurrence at or near such
2 location.

3 13. Permittee shall not sound or permit the sounding of any signal from any
4 stationery bell, chime, siren, whistle, or device for non-emergency purposes or use or operate
5 any loud speaker, public address system, radio, sound amplifier, or similar device which may be
6 heard beyond 50 feet from its source.

7 14. No advertising shall be permitted on or in the sidewalk cafe except to
8 identify the product or vendor and shall in all respects comply with the provisions of Titles 22
9 and 27 of the Lincoln Municipal Code regulating signage.

10 15. Any umbrella, canopy, or similar device within the permit area shall be no
11 more than 6½ feet above ground level.

12 16. The sidewalk cafe shall be located only in the exact location described in
13 the approved application, and the approved furnishings may not be modified or substituted.

14 17. The Permittee shall at all times maintain public liability insurance in the
15 form of a commercial or comprehensive general liability policy, or an acceptable substitute
16 policy form as permitted by the City Attorney, with a minimum combined single limit of \$500,000
17 aggregate for any one occurrence, and shall at all times keep on file with the City Clerk a
18 current certificate of insurance signed by a qualified agent of an insurance company licensed to
19 do business in the State of Nebraska evidencing the existence of valid and effective policies of
20 insurance naming the City as an additional insured for the coverage required above, the limits
21 of each policy, the policy number, the name of the insurer, the effective date and expiration
22 date of each policy, the deductibles or self-insurance retainers of each policy, and a copy of an
23 endorsement placed on each policy requiring 30 days notice by mail to the City Clerk before the
24 insurer may cancel the policy for any reason, and upon request of the City Clerk or the City

1 Attorney, a copy of any endorsements placed on such policies or the declarations page of such
2 policies. Any termination or elapse of such insurance shall automatically revoke this permit.

3 18. This permit shall expire on the 31st day of May following its issuance, but
4 renewal of the permit may be made for one-year periods by application to the City Clerk and
5 payment of the annual permit fee as set forth in Chapter 14.50 and the payment of the rental for
6 the use or occupation of the space computed as follows: \$.25 per annum for each square foot
7 of the permit area (330 square feet) for an annual rental of \$82.50; provided, however, said
8 rental may be increased for future years by action of the City Council.

9 19. That within thirty (30) days from the adoption of this resolution, and
10 before commencing any construction under the provisions hereof, the above-named applicant
11 shall execute the letter of acceptance attached hereto and marked as Exhibit "C". Failure to do
12 so will be considered a rejection hereof and all privileges and authorities hereunder granted
13 shall thereupon automatically terminate.

Introduced by:

Approved as to Form and Legality:

City Attorney

Approved this ____ day of _____, 2004:

Mayor